

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 16201 of 2007(D)

**AGAINST THE ORDER IN EP 189/2002 IN
OS.273/1995 OF PRL.SUB COURT, THALASSERY**

PETITIONER:

**P.KRISHNAN, S/O.GOPI, NATIONAL AGENCIES
(DRIVING SCHOOL) NARANGAPURAM, THIRUVANGAD
AMSOM AND DESOM, POST THIRUVANGAD, THALASSERY
TALUK, KANNUR DISTRICT.**

**BY ADV. SRI.E.R.VENKATESWARAN
SRI.R.SREEHARI**

RESPONDENTS:

**MUTHUVODATHIL MUHAMMEDALI, S/O.SALI,
IRIVERY AMSOM AND DESOM, POST IRIVERY,
KANNUR DISTRICT.**

BY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

M.N.KRISHNAN, J

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W.P.(C) No.16201 OF 2007

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Dated this the 29th day of May, 2007

JUDGMENT

This writ petition is preferred against the order of the Sub Court, Thalassery for issuance of arrest warrant. The suit is one for realisation of the amount and it has been decreed. The dispute arose on account of a transaction relating to sale of a car. In appeal, this court has earlier directed that the car shall be produced before the execution court before realising the amount due as per the decree and it will be open to the appellant to take back the car from the court. It is seen that as per the proceedings in the execution petition, the car could not be produced and only it is produced as a scrap and the court further observed that the scrap would not be sold for want of bidders. Thereafter the court made further enquiries regarding the means of the judgment debtor and was satisfied that the judgment debtor is conducting a driving school which indicates means and therefore directed him to pay the amount. He did not make any payment and so, on 9.4.2007 it is submitted, order of arrest is made against the judgment debtor.

2. Learned counsel for the revision petitioner submits that his client wants to pay off the decree debt, but prays for a reasonable time. This is a

case which had arisen out of a transaction involved in the sale of the car and the car was in the custody of the decree holder. Though, now it has become useless and it is only produced in the form of a scrap, at least some indulgence has to be shown to the defendant and therefore I am inclined to dispose of the writ petition as follows:

(1) The warrant of arrest ordered be recalled on condition that the writ petitioner pays an amount of Rs.20,000/- within a period of six weeks from today to the decree holder or his counsel.(2) The Sub Judge, Thalassery is directed to consider whether a reasonable time can be granted in the form of instalment facility to the judgment debtor to wipe off the decree debt after hearing the decree holder.(3) The judgment debtor is directed to appear before the lower court on 30.6.2007 and the court is directed to give notice to the decree holder and post the case on the last day of the sixth week for effecting payment and for conducting further enquiry as stated above.(4) The judgment debtor be permitted to take back the vehicle in whatever form it is available after discharging the decree debt.

M.N.KRISHNAN, JUDGE

Cdp/-